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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

| | | |
|----------------------------------|---|---------------------------|
| UNITED STATES OF AMERICA, |) | No. C 08-01161 EDL |
| |) | EXPARTE |
| Plaintiff, |) | MOTION TO CONTINUE CASE |
| |) | MANAGEMENT CONFERENCE; |
| v. |) | [PROPOSED] ORDER AND CASE |
| |) | MANAGEMENT STATEMENT |
| APPROXIMATELY \$99,900 IN UNITED |) | |
| STATES CURRENCY, |) | |
| |) | |
| Defendant. |) | |

The United States submits this Motion to Continue Case Management Conference and Case Management Statement. Because no one has filed a claim or answer as required by Rule G, there is no party with whom the United States can file a joint Case Management Statement or a stipulated request to continue the Case Management Conference. For the reasons set forth below in Sections B.3 and F the United States moves to continue the Case Management Conference from June 3, 2008, to July 24, 2008, at 10:00 p.m. or such other time as is convenient for the court.

A. STATEMENT OF FACTS AND EVENTS UNDERLYING THE ACTION

This is a judicial forfeiture action, as authorized by 21 U.S.C. § 881(a)(4) and (6), involving the seizure of defendant: approximately \$99,900 in United States Currency, which was seized as money furnished or intended to be furnished by a person in exchange for a controlled

1 substance, or money traceable to such an exchange, or money used or intended to be used to
2 facilitate a violation of Subchapter I, Chapter 13 of Title 21 United States Code. The defendant
3 currency was seized during the execution of a search warrant on Michael Munoz's residence.
4 Michael Munoz and his mother, Gloria Munoz, both filed claims during the administrative
5 forfeiture proceedings. They were represented by L. Stephen Turer.

6 Cherubim E. Hurdle was unknown to the United States until the filing of his letter with the
7 Court on March 27, 2008.

8 The currency is in the custody of the United States Marshals Service.

9 **B. PRINCIPAL ISSUES**

10 **1. The principal factual issues that the parties dispute are:**

11 **2. The principal legal issues that the parties dispute are:**

12 No one has submitted a timely claim or answer and therefore no factual or legal issues have
13 been joined.

14 **3. The following issues as to service of process, personal jurisdiction, subject matter**
15 **jurisdiction, or venue remain unresolved.**

16 The civil forfeiture complaint was filed on February 27, 2008. Munoz and his mother were
17 served on or about March 3, 2008, at the offices of their attorney L. Stephen Turer, Esq., 610
18 Davis Street, Santa Rosa, California via Certified Mail. Service was also performed by
19 publication in newspapers and on the internet. Docket #7. Cherubim Hurdle (hereinafter
20 "Hurdle") may have discovered the claim through an internet search. Hurdle has filed letters or
21 claims in Texas, California, Michigan and Illinois, claiming to be a new business owner, who is
22 filing claims on behalf of future clients. In at least three jurisdictions district courts have stricken
23 Hurdle's claims and/or found them to be "indisputably meritless and nonsensical"). United
24 States v. Mark A. Hall, Case No 07-RC-3002, Order by United States District Judge Michael J.
25 Reagan, page 2, attached hereto as Exhibit A. Orders from the district courts in the Eastern
26 District of Michigan (4 cases) and the Southern District of Texas are also attached as Exhibit B.

27 The United States intends file a Motion for Determination that Cherubim Hurdle Has No
28 Legal Interest in the Defendant Property by the end of this week.

4. The following parties have not yet been served:

See above.

5. Any additional parties that a party intends to join are listed below:

None.

6. Any additional claims that a party intends to add are listed below:

None.

C. ALTERNATIVE DISPUTE RESOLUTION

Not applicable at this time.

D. CONSENT TO JURISDICTION BY A MAGISTRATE JUDGE

Not applicable at this time.

E. DISCLOSURES

Forfeiture actions are exempt from the initial disclosures required in Rule 26, Federal Rules of Civil Procedure.

F. EARLY FILING OF MOTIONS

The United States and Michael Munoz have agreed on a settlement of this case. Hence, Michael Munoz has not filed a claim and answer in this case. (Gloria Munoz is deceased.) A stipulated settlement will be filed once the court has determined the issue of Hurdle's standing or legal interest in the defendant currency.

G. DISCOVERY

Not applicable at this time..

H. PRETRIAL AND TRIAL SCHEDULE

Not applicable at this time.

I. DATE OF NEXT CASE MANAGEMENT/STATUS

CONFERENCE _____

J. IDENTIFICATION AND SIGNATURE OF LEAD TRIAL COUNSEL

Susan B. Gray
Assistant United States Attorney
Asset Forfeiture Unit
450 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

415 436 7324

No one has submitted a claim or answer for any claimant to the defendant funds. (The United States' position is that Hurdle's letter does not constitute a claim.)

K. OTHER MATTERS/REQUEST TO CONTINUE

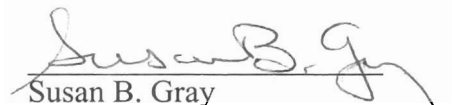
As noted above, no one has filed a claim or answer in this case. Given the current posture of this case, the United States requests that the Case Management Conference currently scheduled for June 3, 2008, be continued to July 24, 2008, at 10:00 a.m..

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney

Dated: May 27, 2008

Respectfully submitted,


Susan B. Gray
Assistant United States Attorney

Based upon the foregoing, and GOOD CAUSE APPEARING, the Case Management Conference in the above-entitled case is continued from June 3, at 10:00 a.m. to July 24, 2008, at 10:00 a.m..

IT IS SO ORDERED.

ELIZABETH D. LAPORTE
United States Magistrate Judge

Attachment A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

| | | |
|---------------------------|---|--------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 07-CR-30022-MJR |
| |) | |
| MARK A. HALL, |) | |
| |) | |
| Defendant. |) | |

ORDER

REAGAN, District Judge:

On March 31, 2008, Cherubim E. Hurdle, Interested Party, filed a letter, which the Court construed as a motion to file a claim. Therein, Hurdle indicated that she was “filing this Verified Claim as a business owner claiming a legal interest” in the real property regarding which the Government has filed a notice of forfeiture in this action. She requests that her business, Eggshell Dynamics Accounts Auditing Services, be made administrator over the property in order to proceed with the claims process on behalf of her “future clients.”

On April 2, 2008, the Court set a hearing on the motion for April 18, 2008. The Court warned Hurdle that failure to appear at the April 18th hearing would result in denial of the motion with prejudice. Assistant United States Attorney Thompson appeared for the hearing, but Hurdle failed to appear.

First, Hurdle’s claim is frivolous because it contains no allegations which could possibly provide any basis for relief. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992) (“A claim is legally frivolous when it lacks an arguable basis either in law or in fact”). Her contention that the property at issue should be transferred to her so that she can hold it until “innocent owners or

bystanders” can be located by her is indisputably meritless and nonsensical.

Second, the Court ordered Hurdle to appear for a hearing and warned her that her motion would be denied with prejudice if she failed to appear for the duly-noticed hearing. Nonetheless, she failed to comply with the Court’s Order and did not appear.

For these reasons, the Court **DENIES with prejudice** Hurdle’s motion to file a claim (Doc. 68).

IT IS SO ORDERED.

DATED this 2nd day of May, 2008

s/Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge

Attachment B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 08-11122

vs.

HON. GEORGE CARAM STEEH

ONE HUNDRED THREE THOUSAND
THREE HUNDRED FORTY-FIVE
DOLLARS IN UNITED STATES
CURRENCY (\$103,345.00),

Defendant.

ORDER STRIKING CLAIM FILED BY CHERUBIM E. HURDLE [DOC. 10]

On April 2, 2008 non-party Cherubim E. Hurdle filed a purported claim in this action. According to her filing, Ms. Hurdle contends that she is filing a claim in this case in a representative capacity on behalf of "future clients." Ms. Hurdle herself is not a party and she does not have any financial stake in the forfeited property. As such, Ms. Hurdle lacks standing to participate in this case. The Court hereby, *sua sponte*, strikes Ms. Hurdle's "claim" filed as document number 10 in this action.

It is so ordered.

Dated: April 22, 2008

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
April 22, 2008, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Civil No. 08-10566

Honorable Bernard A. Friedman

ELEVEN THOUSAND EIGHT
HUNDRED AND SEVENTY
DOLLARS IN UNITED STATES
CURRENCY (\$11,870.00),

Defendant.

ORDER RE-DESIGNATING CLAIM FILED BY CHERUBIM E. HURDLE

Upon the Ex Parte Motion and Brief for Entry of Order Striking or Re-Designating Claim Filed by Cherubim E. Hurdle brought by the Plaintiff, United States of America, and the Court being otherwise fully advised in the premises, now, therefore;

IT IS HEREBY ORDERED that the letter of Cherubim E. Hurdle filed as document number 6 in this action be re-docketed by the Clerk of the Court as a letter of interest and its designation as a claim under 18 U.S.C. § 983 be removed.

s/Bernard A. Friedman
HONORABLE BERNARD E. FRIEDMAN
United States District Judge

Dated: May 1, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record by electronic and/or first-class mail.

s/Carol Mullins
Case Manager to Chief Judge Friedman

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Civil No. 08-10594
Honorable Bernard A. Friedman

ONE HUNDRED THIRTY TWO THOUSAND
SEVEN DOLLARS AND SEVENTY SIX
CENTS (\$132,007.76) FROM FIFTH THIRD
BANK ACCOUNT NO. 7920257661;

Defendant.

ORDER RE-DESIGNATING CLAIM FILED BY CHERUBIM HURDLE

Upon the Ex Parte Motion and Brief for Entry of Order Striking or Re-Designating Claim
Filed By Cherubim E. Hurdle brought by the Plaintiff, United States of America, and the Court
being otherwise fully advised in the premises, now, therefore;

IT IS HEREBY ORDERED that the letter of Cherubim E. Hurdle filed as document
number 3 in this action be re-docketed by the Clerk of the Court as a letter of interest and its
designation as a claim under 18 U.S.C. § 983 be removed.

s/Bernard A. Friedman _____
HONORABLE BERNARD A. FRIEDMAN
United States District Court Judge

Dated: May 1, 2008

I hereby certify that a copy of the foregoing document
was served upon counsel of record by electronic and/or first-class mail.

s/Carol Mullins
Case Manager to Chief Judge Friedman

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES,

Plaintiff,

v.

Case No. 08-CV-10733-DT

FIFTEEN THOUSAND EIGHT HUNDRED FIVE
DOLLARS IN UNITED STATES CURRENCY
(\$15,805.00),

Defendant *in Rem*.

ORDER FOR THE CLERK OF THE COURT TO RE-DOCKET CHERUBIM
HURDLE'S LETTER [DKT. # 10] AS A LETTER OF INTEREST AND
REMOVE ITS DESIGNATION AS A CLAIM

Plaintiff United States of America initiated this forfeiture action on February 21, 2008 and Claimants Devon Rice and Alisha Laginess filed a verified claim of ownership on February 28, 2008. On April 2, 2008, a person identified as Cherubim Hurdle filed a letter that has been docketed as a claim of interest. Hurdle does not, however, specify any actual possessory interest she may have in the seized property at issue in this case, as required by 18 U.S.C. § 983. Instead, Hurdle is identified as "a new business owner" who is "filing this Verified Claim . . . on behalf of my future clients." (Hurdle Letter, Dkt. # 10.)

It appears that this letter's current designation as a "claim" in this case is not warranted and that it has been misidentified on the docket. Rather, it appears that Hurdle is merely offering to represent potential claimants in this proceeding, (*id.* ("I am responding on behalf of . . . those who are not aware of your notice, did not see the notice, are not aware of their rights even if they did see the notice.")). Accordingly,

IT IS ORDERED that the Clerk of the Court re-docket Cherubim Hurdle's letter [Dkt. # 10] as a letter of interest and remove its designation as a § 983 "claim."

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: April 21, 2008

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, April 21, 2008, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: NINE UNRELATED NON-
JUDICIAL CIVIL ASSET
FORFEITURE PROCEEDINGS

No. 4:07-mc-0715

ORDER

Pending before the Court is the United States' Motion for Determination that Cherubim Hurdle Has No Legal Interest In Money Subject to Nine Unrelated Agency Forfeiture Proceedings (Doc. No. 4). After considering the relevant law and entertaining arguments at a hearing on the pending motion, the Court finds that Defendant's motion should be **GRANTED**.

The Court finds that Cherubim Hurdle lacks standing to contest the forfeiture of the nine unrelated agency forfeiture proceedings, agency numbers: 2007-2104-000015-01; 2007-2104-000030-01; 2007-5301-000126-01; 2007-5301-000159-01; 2007-5301-000215-01; 2007-5309-000193-01; 2007-2104-000005-01; 2007-2104-000038-01; and 2007-5310-000008-01.

For the reasons stated at the hearing on the pending motion, the Court also cautions Ms. Hurdle against filing this claim in other forfeiture proceedings.

IT IS SO ORDERED.

SIGNED this 5th day of May, 2008


KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE